



STATE OF MARYLAND

**DHMH**

Maryland Department of Health and Mental Hygiene

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**Office of Food Protection and Consumer Health Services**

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MARYLAND INTERPRETIVE MEMORANDUM (MIM)	
<b>MIM #:</b>	<b>09-01</b>
<b>TO:</b>	Environmental Health Directors/ Food Program Supervisors/ Sanitarians
<b>FROM:</b>	Jody Menikheim, <i>Jm</i> Chief, Division of Facility and Process Review
<b>DATE:</b>	June 3, 2009
<b>SUBJECT:</b>	<b>Requirements for Open Air Markets</b>

This memorandum provides guidance concerning the minimum requirements that are applied to food service facilities that are open air markets. An open air market is a food service facility where raw agricultural products and potentially hazardous prepackaged foods are sold to the public from a structure that is not enclosed. Additionally, an open air market operates on a seasonal basis while other food service facilities operate year-round. COMAR 10.15.03 specifies the minimum food handling requirements for a food service facility, but in order to apply the requirements to an open air market, the following criteria must be considered when inspecting and licensing this type of food service facility.

1. A food service facility license, issued by the local health department, must be obtained by the applicant to operate an open air market.
2. Before operating an open air market, applicants must contact local building, electrical, and zoning departments to ensure compliance with local requirements.
3. No open food or beverages or cutting of produce is allowed at an open air market. No food preparation is allowed at open air markets unless the open air market is in full compliance with COMAR 10.15.03.
4. All packaged food must come from an approved source.
5. Except for raw agricultural products, only prepackaged food can be offered for sale at open air markets.
6. The facility premises must be determined adequate by the approving authority and kept in a sanitary condition, e.g. structure separate from areas of crop spraying, livestock housing, and other possible sources of contamination to food items.
7. Refrigeration or freezer equipment shall meet certain design standards, such as NSF, UL, ETL, or another standard that is acceptable to the approving authority. Refrigeration equipment must be able to maintain food at 41°F or below and freezer equipment must be able to maintain frozen food frozen.

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8. The open air market must have a permanent structure with overhead protection.
9. The floors, walls, and ceiling must be kept in good repair. Food contact surfaces used for displaying or storing food must be constructed of easily cleanable surfaces. A concrete floor must be impervious to water.
10. The open air market must be secured and locked after operating hours. If the building cannot be secured and locked, then all food must be placed in a secure location. All food located in refrigerated or freezer equipment that is capable of being secured and locked does not need to be removed regardless of whether the facility's structure can be locked.
11. Restrooms and hand sinks will not be required at an open air market that sell only raw agricultural products and pre-packaged food items.
12. Approved provisions must be made for the handling and disposal of all refuse. Trash containers must have tight fitting lids or covers.
13. An open air market that offers only prepackaged non-potentially hazardous food is not a food service facility and would not require a license.

It is expected that each approving authority will uniformly and consistently enforce the requirements for these facilities. If you have any questions, please contact the Division of Facility and Process Review at (410) 767-8400.